

FIRST REGULAR SESSION

HOUSE BILL NO. 767

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JONES (50) (Sponsor), FUNDERBURK, MOLENDORP, NETH, HOUGH, CIERPIOT, HICKS, WEBBER, ZERR, HAMPTON, HODGES, MCGAUGH, HOSKINS, KORMAN, RICHARDSON, COLONA, DUGGER, ELMER AND GRISAMORE (Co-sponsors).

1164H.03I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 620.1910, RSMo, and to enact in lieu thereof one new section relating to the Manufacturing and Utility Infrastructure Jobs Act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 620.1910, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.1910, to read as follows:

620.1910. 1. This section shall be known and may be cited as the "Manufacturing **and Utility Infrastructure Jobs Act**".

2. As used in this section, the following terms mean:

(1) "Approval", a document submitted by the department to the qualified manufacturing company [or] , **a qualified supplier, or a qualified investor-owned utility** that states the benefits that may be provided under this section;

(2) "Capital investment", expenditures made by a qualified manufacturing company to retool or reconfigure a manufacturing facility directly related to the manufacturing of a new product or the expansion or modification of the manufacture of an existing product, **or expenditures made by a qualified investor-owned utility to replace, expand, or improve utility-owned infrastructure, transmission, or new generation including, but not limited to, small modular reactors and renewable energy used to provide utility services;**

(3) "County average wage", the same meaning as such term is defined in section 620.1878;

(4) "Department", the department of economic development;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (5) "Facility", a building or buildings located in Missouri at which the qualified
17 manufacturing company manufactures a product, **or the machinery, equipment, and devices**
18 **located in Missouri comprising the infrastructure used by a qualified investor-owned**
19 **utility in providing its utility services;**

20 (6) "Full-time job", a job for which a person is compensated for an average of at least
21 thirty-five hours per week for a twelve-month period, and one for which the qualified
22 manufacturing company, **qualified supplier**, or qualified [supplier] **investor-owned utility**
23 offers health insurance and pays at least fifty percent of such insurance premiums;

24 (7) "NAICS industry classification", the most recent edition of the North American
25 Industry Classification System as prepared by the Executive Office of the President, Office of
26 Management and Budget;

27 (8) "New job", the same meaning as such term is defined in section 620.1878;

28 (9) "New product", a new model or line of a manufactured good that has not been
29 manufactured in Missouri by the qualified manufacturing company at any time prior to the date
30 of the notice of intent, or an existing brand, model, or line of a manufactured good that is
31 redesigned with more than seventy-five percent new exterior body parts and incorporates new
32 powertrain options;

33 (10) "Notice of intent", a form developed by the department, completed by the qualified
34 manufacturing company, **qualified supplier**, or qualified [supplier] **investor-owned utility** and
35 submitted to the department which states the qualified manufacturing company's, **qualified**
36 **supplier's**, or qualified [supplier's] **investor-owned utility's**, intent to create new jobs or retain
37 current jobs and make additional capital investment, as applicable, and request benefits under
38 this section. The notice of intent shall specify the minimum number of such new or retained jobs
39 and the minimum amount of such capital investment;

40 (11) "Qualified manufacturing company", a business with a NAICS code of 33611 that:

41 (a) Manufactures goods at a facility in Missouri;

42 (b) In the case of the manufacture of a new product, commits to make a capital
43 investment of at least seventy-five thousand dollars per retained job within no more than two
44 years of the date the qualified manufacturing company begins to retain withholding tax under this
45 section, or in the case of the modification or expansion of the manufacture of an existing product,
46 commits to make a capital investment of at least fifty thousand dollars per retained job within
47 no more than two years of the date the qualified manufacturing company begins to retain
48 withholding tax under this section;

49 (c) Manufactures a new product or has commenced making capital improvements to the
50 facility necessary for the manufacturing of such new product, or modifies or expands the
51 manufacture of an existing product or has commenced making capital improvements to the

52 facility necessary for the modification or expansion of the manufacture of such existing product;
53 and

54 (d) Continues to meet the requirements of paragraphs (a) to (c) of this subdivision for
55 the withholding period;

56 (12) **"Qualified investor-owned utility", an investor-owned business regulated by**
57 **the Missouri Public Service Commission that, for compensation, produces or sells any of**
58 **the following utilities and services: electricity, natural gas, water, or sewer, and that:**

59 (a) **Produces or provides such utility services in Missouri;**

60 (b) **Commits to make a capital investment in its utility infrastructure of at least**
61 **seventy-five thousand dollars per new job relating to such investment within no more than**
62 **two years of the date the qualified investor-owned utility begins to retain withholding tax**
63 **under this section; and**

64 (c) **Continues to meet the requirements of (a) and (b) of this subdivision for the**
65 **withholding period;**

66 (13) "Qualified supplier", a manufacturing company that:

67 (a) Attests to the department that it derives more than ten percent of the total annual sales
68 of the company from sales to a qualified manufacturing company **or a qualified investor-owned**
69 **utility related to that utility's Missouri infrastructure;**

70 (b) Adds five or more new jobs;

71 (c) Has an average wage, as defined in section 135.950, for such new jobs that are equal
72 to or exceed the lower of the county average wage for Missouri as determined by the department
73 using NAICS industry classifications, but not lower than sixty percent of the statewide average
74 wage; and

75 (d) Provides health insurance for all full-time jobs and pays at least fifty percent of the
76 premiums of such insurance;

77 [(13)] (14) "Retained job", the number of full-time jobs of persons employed by the
78 qualified manufacturing company located at the facility that existed as of the last working day
79 of the month immediately preceding the month in which notice of intent is submitted;

80 [(14)] (15) "Statewide average wage", an amount equal to the quotient of the sum of the
81 total gross wages paid for the corresponding four calendar quarters divided by the average annual
82 employment for such four calendar quarters, which shall be computed using the Quarterly
83 Census of Employment and Wages Data for All Private Ownership Businesses in Missouri, as
84 published by the Bureau of Labor Statistics of the United States Department of Labor;

85 [(15)] (16) "Withholding period", the seven- or ten-year period in which a qualified
86 manufacturing company **or a qualified investor-owned utility** may receive benefits under this
87 section;

88 [(16)] (17) "Withholding tax", the same meaning as such term is defined in section
89 620.1878.

90 3. The department shall respond within thirty days to a qualified manufacturing
91 company, **a qualified supplier**, or a qualified [supplier who] **investor-owned utility that**
92 provides a notice of intent with either an approval or a rejection of the notice of intent. Failure
93 to respond on behalf of the department shall result in the notice of intent being deemed an
94 approval for the purposes of this section.

95 4. A qualified manufacturing company that manufactures a new product may, upon the
96 department's approval of a notice of intent and the execution of an agreement that meets the
97 requirements of subsection [9] **10** of this section, but no earlier than January 1, 2012, retain one
98 hundred percent of the withholding tax from full-time jobs at the facility for a period of ten years.
99 A qualified manufacturing company that modifies or expands the manufacture of an existing
100 product may, upon the department's approval of a notice of intent and the execution of an
101 agreement that meets the requirements of subsection [9] **10** of this section, but no earlier than
102 January 1, 2012, retain fifty percent of the withholding tax from full-time jobs at the facility for
103 a period of seven years. Except as otherwise allowed under subsection [7] **8** of this section, the
104 commencement of the withholding period may be delayed by no more than twenty-four months
105 after execution of the agreement at the option of the qualified manufacturing company. Such
106 qualified manufacturing company shall be eligible for participation in the Missouri quality jobs
107 program in sections 620.1875 to 620.1890 for any new jobs for which it does not retain
108 withholding tax under this section, provided all qualifications for such program are met.

109 5. A qualified supplier may, upon approval of a notice of intent by the department, retain
110 all withholding tax from new jobs for a period of three years from the date of approval of the
111 notice of intent or for a period of five years if the supplier pays wages for the new jobs equal to
112 or greater than one hundred twenty percent of county average wage. Notwithstanding any other
113 provision of law to the contrary, a qualified supplier that is awarded benefits under this section
114 shall not receive any tax credit or exemption or be entitled to retain withholding under sections
115 100.700 to 100.850, sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535,
116 sections 135.900 to 135.906, sections 135.950 to 135.970, or section 620.1881 for the same jobs.

117 6. **A qualified investor-owned utility may, upon the department's approval of a**
118 **notice of intent and the execution of an agreement that meets the requirements of**
119 **subsection 10 of this section, but no earlier than January 1, 2014, retain fifty percent of the**
120 **withholding tax from full-time jobs created to replace or expand that utility's Missouri**
121 **infrastructure for a period of ten years. Except as otherwise allowed under subsection 8**
122 **of this section, the commencement of the withholding period may be delayed by no more**
123 **than twenty-four months after execution of the agreement at the option of the qualified**

investor-owned utility. Such qualified investor-owned utility shall be eligible for participation in the Missouri quality jobs program in sections 620.1875 to 620.1890 for any new jobs for which it does not retain withholding tax under this section, provided all qualifications for such program are met.

7. Notwithstanding any other provision of law to the contrary, the maximum amount of withholding tax that may be retained by any one qualified manufacturing company **or any one qualified investor-owned utility** under this section shall not exceed ten million dollars per calendar year. The aggregate amount of withholding tax that may be retained by all qualified manufacturing companies **is fifteen million dollars per calendar year and investor-owned utilities** under this section shall not exceed fifteen million dollars per calendar year.

[7.] 8. Notwithstanding any other provision of law to the contrary, any qualified manufacturing company **or qualified investor-owned utility** that is awarded benefits under this section shall not simultaneously receive tax credits or exemptions under sections 100.700 to 100.850, sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 for the jobs created or retained or capital improvement which qualified for benefits under this section. The benefits available to the qualified manufacturing company **or qualified investor-owned utility** under any other state programs for which the qualified manufacturing company **or qualified investor-owned utility** is eligible and which utilize withholding tax from the jobs at the facility shall first be credited to the other state program before the applicable withholding period for benefits provided under this section shall begin. These other state programs include, but are not limited to, the new jobs training program under sections 178.892 to 178.896, the job retention program under sections 178.760 to 178.764, the real property tax increment allocation redevelopment act under sections 99.800 to 99.865, or the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980. If any qualified manufacturing company **or qualified investor-owned utility** also participates in the new jobs training program in sections 178.892 to 178.896, such qualified manufacturing company **or qualified investor-owned utility** shall not retain any withholding tax that has already been allocated for use in the new jobs training program. Any qualified manufacturing company [or] , qualified supplier, **or qualified investor-owned utility** that is awarded benefits under this program and knowingly hires individuals who are not allowed to work legally in the United States shall immediately forfeit such benefits and shall repay the state an amount equal to any withholding taxes already retained. Subsection 5 of section 285.530 shall not apply to qualified manufacturing companies [or] , qualified suppliers, **or qualified investor-owned utilities**, which are awarded benefits under this program.

[8.] 9. The department may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the

authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

[9.] **10.** Within six months of completion of a notice of intent required under this section, the qualified manufacturing company **or qualified investor-owned utility** shall enter into an agreement with the department that memorializes the content of the notice of intent, the requirements of this section, and the consequences for failing to meet such requirements, which shall include the following:

(1) If the amount of capital investment made by the qualified manufacturing company **or qualified investor-owned utility** is not made within the two-year period provided for such investment, the qualified manufacturing company **or qualified investor-owned utility** shall immediately cease retaining any withholding tax with respect to jobs at the facility **or for the replacement or improvement of utility infrastructure** and it shall forfeit all rights to retain withholding tax for the remainder of the withholding period. In addition, the qualified manufacturing company **or qualified investor-owned utility** shall repay any amounts of withholding tax retained plus interest of five percent per annum. However, in the event that such capital investment shortfall is due to economic conditions beyond the control of the qualified manufacturing company **or qualified investor-owned utility**, the director may, at the qualified manufacturing company's **or qualified investor-owned utility's** request, suspend rather than terminate its privilege to retain withholding tax under this section for up to three years. Any such suspension shall extend the withholding period by the same amount of time. No more than one such suspension shall be granted to a qualified manufacturing company **or qualified investor-owned utility**;

(2) If the qualified manufacturing company discontinues the manufacturing of the new product and does not replace it with a subsequent or additional new product manufactured at the facility at any time during the withholding period, the qualified manufacturing company shall immediately cease retaining any withholding tax with respect to jobs at that facility and it shall forfeit all rights to retain withholding tax for the remainder of the withholding period.

[10.] **11.** Prior to March first each year, the department shall provide a report to the general assembly including the names of participating qualified manufacturing companies, **qualified suppliers**, or qualified [suppliers] **investor-owned utilities**, location of such companies [or] , suppliers, **or utilities**, the annual amount of benefits provided, the estimated net

195 state fiscal impact including direct and indirect new state taxes derived, and the number of new
196 jobs created or jobs retained.

197 [11.] **12.** Under section 23.253 of the Missouri sunset act:

198 (1) The provisions of the new program authorized under this section shall automatically
199 sunset October 12, 2016, unless reauthorized by an act of the general assembly; and

200 (2) If such program is reauthorized, the program authorized under this section shall
201 automatically sunset twelve years after the effective date of the reauthorization of this section;
202 and

203 (3) This section shall terminate on September first of the calendar year immediately
204 following the calendar year in which the program authorized under this section is sunset.

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